



*LLC, Aerion Rental Services, LLC and Aerion Properties, LLC*; Cause No. 1926, in the 112th Judicial District Court of Reagan County, Texas, in which Plaintiff asserts that Aerion Defendants were negligent in placing waste collection tanks with a gap that resulted in the incident and injuries sustained by Plaintiff.

1.2 Plaintiff served Defendants with the citation and Plaintiff's First Amended Petition on November 1, 2016. Defendants file this Notice of Removal within the thirty-day time period required by 28 U. S. C. Section 1446(b). Attached hereto as Exhibit "1" is the Index of State Court Documents. A copy of the Reagan County Clerk's file for this case is attached as Exhibit "2", which includes true and correct copies of all executed process, pleadings and orders, and a copy of the docket sheet.

## **II.**

### **BASIS FOR REMOVAL**

2.1 Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446, and all requirements have been met.

#### **A. THE PARTIES ARE OF DIVERSE CITIZENSHIP**

2.2 Upon information and belief, and based on the allegations set forth in Plaintiff's First Amended Petition, Plaintiff Shelby Collums resides in Taylor County Texas. *See* Plaintiff's First Amended Petition at p.1.

2.3 Defendants Aerion Solids Control, LLC, Aerion, LLC, Aerion Rental Services, LLC and Aerion Properties, LLC (collectively "Aerion Defendants") are Louisiana limited liability companies with their principal place of business in Louisiana, and are citizens of the State of Louisiana for diversity purposes. Accordingly, Aerion Defendants are of diverse citizenship to Plaintiff Shelby Collums

**B. THE AMOUNT IN CONTROVERSY EXCEEDS THE JURISDICTIONAL REQUIREMENTS FOR SUBJECT MATTER JURISDICTION.**

2.4 The amount in controversy requirement for Federal diversity jurisdiction is clearly satisfied in this case as evidenced by Plaintiff's First Amended Petition in which Plaintiff expressly alleges that he "seeks monetary relief between \$200,000.00 and \$1,000,000.00." *See* Plaintiff's First Amended Petition at page 4. *S.W.S. Erectors, Inc. v. Infax, Inc.*, 72 F.3d 489, 492 (5th Cir. 1996) (stating that the defendant can rely on a plaintiff's monetary demand stated in the complaint to meet the jurisdictional requirement). This amount clearly exceeds the jurisdictional requirements for subject matter jurisdiction, and demonstrates that the amount in controversy requirement is satisfied.

**III.**  
**THE REMOVAL IS PROCEDURALLY CORRECT**

3.1 Aerion Defendants were first served with Plaintiff's First Amended Petition on November 1, 2016. Defendants file this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b).

3.2 Venue is proper in this District and Division under 28 U.S.C. §1446(a) because this District and Division include the county in which the state action has been pending and because a substantial part of the events giving rise to Plaintiff's claim allegedly occurred in this District and Division.

3.3 Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

3.4 Pursuant to 28 U.S.C. §1446(d), promptly after Aerion Defendants file this Notice, written notice of the filing will be given to Plaintiff, the adverse parties.

3.5 Pursuant to 28 U.S.C. §1446(d), a true and correct copy of this Notice of Removal will be filed with the Clerk of the Reagan County District Court, promptly after Aerion Defendants file this Notice.

**IV.**  
**DOCUMENTS AND EXHIBITS ACCOMPANYING REMOVAL**

4.1 Simultaneously with the filing of this Notice of Removal, attached hereto as Exhibit “1” is an index of all documents filed in the state court action and a copy of each document.

4.2 Attached hereto as Exhibit “2” is a copy of the Docket Sheet/Case Summary of the case pending in 112th Judicial District Court of Reagan County, Texas.

4.2A Attached hereto as Exhibit “2A” is a copy of Plaintiff’s Original Petition, Plaintiff’s Request for Disclosure to Defendants, Plaintiff’s First Set of Interrogatories to Defendants, and Plaintiff’s First Request for Production to Defendants.

4.2B Attached hereto as Exhibit “2B” is a copy of Civil Case Information Sheet.

4.2C Attached hereto as Exhibit “2C” is a copy of Request for Issuance Form.

4.2D Attached hereto as Exhibit “2D” is a copy of Citation – Personal Service issued to Aerion Solids Control.

4.2E Attached hereto as Exhibit “2E” is a copy of Plaintiff’s First Amended Petition.

4.2F Attached hereto as Exhibit “2F” is a copy of Citation with Service Return on Solids Control, LLC..

4.2G Attached hereto as Exhibit “2G” is a copy of Citation with Service Return on Aerion, LLC.

4.2H Attached hereto as Exhibit “2H” is a copy of Citation with Service Return on Aerion Rental Services, LLC.

4.2I Attached hereto as Exhibit “2I” is a copy of Citation with Service Return on Aerion Properties, LLC.

4.2J Attached hereto as Exhibit “2J” is a copy of the Aerion Defendants’ Verified Denial, Special Exceptions and Answer.

4.2K Attached hereto as Exhibit “2K” is a copy of the Aerion Defendants’ First Amended Verified Denial, Special Exceptions and Answer.

**V.**  
**CONCLUSION**

5.1 Based upon the foregoing, and other documents filed contemporaneously with this Notice of Removal and fully incorporated herein by reference, Defendants Aerion Solids Control, LLC, Aerion, LLC, Aerion Rental Services, LLC and Aerion Properties, LLC hereby remove this case to this court for trial and determination.

Respectfully Submitted,

/s/Daniel P. Buechler

Daniel P. Buechler  
State Bar No. 24047756

THOMPSON, COE, COUSINS & IRONS, L.L.P.  
700 N. Pearl Street, 25<sup>th</sup> Floor  
Dallas, Texas 75201  
Telephone: (214) 871-8200  
Facsimile: (214) 871-8209  
Email: [dbuechler@thompsoncoe.com](mailto:dbuechler@thompsoncoe.com)

**COUNSEL FOR DEFENDANTS AERION  
SOLIDS CONTROL, LLC AERION, LLC,  
AERION RENTAL SERVICES, LLC, AND  
AERION PROPERTIES, LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 30, 2016, I served the following document on counsel via electronic notice and/or facsimile:

Greg Allen  
W. Cole Thompson  
ALLEN LAW FIRM  
P.O. Box 700  
Abilene, TX 79604  
[greg@gregallenlaw.com](mailto:greg@gregallenlaw.com)  
[cole@gregallenlaw.com](mailto:cole@gregallenlaw.com)  
*Counsel for Plaintiff*

/s/Daniel P. Buechler

Daniel P. Buechler